Supreme Court, U.S.
FILED

No. 021698 MAR 21 2003

OFFICE OF THE CLERK

In The

Supreme Court of the United States

ANTHONY KOVALCHICK SR. and
HELEN KOVALCHICK,

Petitioners,

vs.

R/S FINANCIAL CORPORATION,

Respondent.

**On Petition For Writ Of Certiorari
To The Supreme Court of Pennsylvania**

PETITION FOR WRIT OF CERTIORARI

ANTHONY KOVALCHICK SR.
HELEN KOVALCHICK
411 Schuylkill Avenue
Tamaqua, PA 18252
570-668-2647

QUESTIONS PRESENTED

(1) Whether a person without financial resources to pay costs of litigation is entitled to proceed in forma pauperis pursuant to Pennsylvania Rules of Civil Procedure, Rule 240(b)?

Suggested answer: YES

(2) Does it appear from the information submitted to the lower courts below, that Anthony and Helen Kovalchick are entitled to proceed in forma pauperis in their appeal?

Suggested answer: YES

(3) Does Pennsylvania Rules of Civil Procedure, Rule 240(c)(3) and Pennsylvania Rules of Appellate Procedure, Rule 552(e) require the court shall briefly state its reasons in the event the application to proceed in forma pauperis is denied?

Suggested answer: YES

(4) Does it appear from the record, that the lower courts below did not state a reason for the denial of the petitioner's application to proceed in forma pauperis?

Suggested answer: YES

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **state courts**:

No court below has written an opinion.

JURISDICTION

For cases from **state courts**:

The date on which the highest state court decided my case was 12-23-02. A copy of that decision appears at Appendix H.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Fifth Amendment to the Constitution of the United States of America in regards to the due process of law.

2. Section One of the Fourteenth Amendment to the Constitution of the United States of America in regards to due process of law.

3. Pennsylvania Rules of Civil Procedure, Rule 240(b) which states:

> "A party who is without financial resources to pay the costs of litigation is entitled to proceed in forma pauperis."

4. Pennsylvania Rules of Civil Procedure, Rule 240(c)(3) and Pennsylvania Rules of Appellate Procedure, Rule 552(e) which both state in part:

> "If the application is denied, in whole or in part, the court shall briefly state its reasons."

STATEMENT OF THE CASE

On January 5, 2000, R/S Financial Corporation filed a Praecipe for Writ of Revival against Anthony and Helen Kovalchick to revive a judgment in an amount in excess of 1 million dollars. Prior to the filing of that Writ of Revival, R/S Financial Corporation had taken no action for more than twelve years to revive its alleged judgment. Anthony and Helen Kovalchick filed an answer to the Writ of Revival and demanded for a jury trial.

R/S Financial Corporation filed a Motion for Judgment on the Pleadings. Anthony and Helen Kovalchick filed their answer to that motion, disputing its claims. Prior to discovery relevant to the motion, the court of common pleas judge granted the motion and revived the judgment.

On June 24, 2002, Anthony and Helen Kovalchick filed Notice of Appeal in the Court of Common Pleas of Schuylkill County. Simultaneously with the filing of the Notice of Appeal, Anthony and Helen Kovalchick filed a

Petition to Proceed in Forma Pauperis. Petition to Proceed In Forma Pauperis attached as APPENDIX E.

On June 28, 2002, the Court of Common Pleas of Schuylkill County, per Judge Russell, denied the Petition to Proceed In Forma Pauperis without prejudice to the petitioners' re-submitting the petition with additional information. Order of Court attached as APPENDIX B.

On July 12, 2002, Anthony and Helen Kovalchick re-submitted their Petition to Proceed In Forma Pauperis with the additional information that had been requested. Petition to Proceed In Forma Pauperis Re-Submitted with additional information attached as APPENDIX F.

R/S Financial Corporation filed a response to the Petition to Proceed In Forma Pauperis re-submitted with additional information on July 16, 2002. Copy of response without exhibits attached as APPENDIX G.

On August 6, 2002, The Court of Common Pleas of Schuylkill County, per Judge Dolbin, denied the Petition to Proceed In Forma Pauperis. The Honorable Judge Dolbin did not state any particular reason for the denial. Copy of Judge Dolbin's Order attached as APPENDIX C.

Pursuant to Pa. R.A.P. 553, Anthony and Helen Kovalchick applied to the Superior Court of Pennsylvania, Middle District, for leave to proceed in forma pauperis in their appeal. As required, Anthony and Helen Kovalchick had prepared and signed a verified statement pursuant to Pa. R.A.P. 561. A copy of the verified statement attached as APPENDIX H.

On August 23, 2002, The Superior Court of Pennsylvania denied the Petition to Proceed In Forma Pauperis.

The Court did not state any particular reason for the denial. Order of Court attached as APPENDIX A.

Anthony and Helen Kovalchick timely filed a Notice of Appeal from the August 23, 2002 Order. On December 23, 2002, The Supreme Court of Pennsylvania, Middle District, denied the Notice of Appeal. The Court did not state any particular reason for the denial. Order of the Supreme Court of Pennsylvania is attached as APPENDIX D.

Anthony Kovalchick and Helen Kovalchick, husband and wife, are 82 and 80 years old respectively, have both been retired for many years and live on social security. Anthony and Helen Kovalchick are proceeding pro se in this litigation because they cannot afford legal counsel and filed their petition to proceed in forma pauperis as they cannot afford to pay the costs of litigation. Pursuant to Pa. R.C.P. 240(b) "A party who is without financial resources to pay the costs of litigation is entitled to proceed in forma pauperis." Anthony and Helen Kovalchick have timely and properly filed all the necessary documents together with their Petition to Proceed In Forma Pauperis in the courts below and are legally entitled to have that petition granted to them.

Pa. R.C.P. 240(c)(3) and Pa. R.A.P. 552(e) both state in part: "If the application is denied, in whole or in part, the court shall briefly state its reasons." None of the courts below in this matter have stated any particular reason why the petition to proceed in forma pauperis was denied. The refusal of the lower courts to grant the petition or to state a particular reason for their denial is a violation of the right to due process of law as provided for by the Fifth

and Fourteenth Amendments to the Constitution of the United States of America.

REASONS FOR GRANTING THE WRIT

The lower courts involved in this matter have erred in that they have denied informa pauperis status to two individuals that qualify to proceed as such. The lower court decisions were rendered in violation of Pa. R.C.P. 240(c)(3) and Pa. R.A.P. 552(e) which require the court to briefly state its reasons for denial of the application. None of the courts below have stated a particular reason for their denial, therefore Anthony and Helen Kovalchick are without knowledge as to why their petition was denied. The lower court decisions were rendered in violation of the U.S. Constitutional rights to due process of law as the above cited Pa. Rule of Civil Procedure and Pa. Rule of Appellate Procedure require the court to briefly state its reasons for denial. None of the courts below have done so.

It is of national importance to have this petition heard. In the event the Supreme Court of the United States declines to hear this matter, it is very likely the lower courts will continue to deny individuals informa pauperis status without ever stating a reason for the denial and many individuals qualified to proceed in forma pauperis will be denied.

It is very important to Anthony and Helen Kovalchick to have this petition heard. In the event Anthony and Helen Kovalchick would be granted permission to proceed in forma pauperis in their appeal, pursuant to Pa. R.C.P. 240(f)(2), they would not be required to post bond or other security for costs as a condition to continue in their appeal

from the order granting R/S Financial Corporation's motion for judgment on the pleadings, reviving a judgment in excess of 1 million dollars.

Anthony and Helen Kovalchick cannot afford to post the bond that would be required in this matter. In the event the petition to proceed in forma pauperis is denied, the Kovalchick's will be unable to post bond and R/S Financial Corporation can then execute on its judgment, prior to a final adjudication in the manner. It is very likely that there are many other individuals in the United States in a similar situation.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

ANTHONY KOVALCHICK
HELEN KOVALCHICK
411 Schuylkill Avenue
Tamaqua, Pa 18252
570-668-2647

Date: March 20, 2003

APPENDIX A

R/S FINANCIAL CORPORATION	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
ANTHONY KOVALCHICK, SR., ET UX., ET AL.	:	No. 1123 MDA 2002
ET AL.	:	

ORDER

Upon consideration of appellants Anthony Kovalchick, Sr. and Helen Kovalchick's August 15, 2002 petition to proceed in forma pauperis, the petition is **DENIED**.

Date: Aug. 23, 2002 Per Curiam

APPENDIX B

COURT OF COMMON PLEAS OF
SCHUYLKILL COUNTY – CIVIL ACTION-LAW

R/S FINANCIAL CORPORATION Plaintiff	No. S-1274-1977 No. J-802-1988
vs.	
ANTHONY KOVALCHICK, SR., and HELEN KOVALCHICK, h/w, t/a BELL COAL COMPANY, Defendants	
vs.	JURY TRIAL DEMANDED
ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT, Additional Defendants	
MICHAEL KOVALCHICK and CATHY KOVAL-CHICK, PETER KOVAL-CHICK and DONNA-LYNN KOVALCHICK Garnishees	

ORDER OF COURT

(Filed June 28, 2002)

RUSSELL, J.

AND NOW, this 28th day of June, 2002, at 12:30 o'clock PM., it is hereby ORDERED Defendant Anthony Kovalchick, Sr.'s Petition to Proceed In Forma Pauperis is DENIED without prejudice to his re-submitting the

petition with information identifying the amount of Social Security benefits and contributions from children received, together with the amount held within any checking account, the value of real estate, motor vehicles and any other assets and filing proof of service of the petition upon all other parties.

BY THE COURT,

/s/ Russell J J.

COURT OF COMMON PLEAS OF
SCHUYLKILL COUNTY – CIVIL ACTION-LAW

R/S FINANCIAL CORPORATION Plaintiff	:	No. S-1274-1977 No. J-802-1988
vs.	:	
ANTHONY KOVALCHICK, SR., and HELEN KOVALCHICK, h/w, t/a BELL COAL COMPANY, Defendants	:	
vs.	:	JURY TRIAL DEMANDED
ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT, Additional Defendants	:	
MICHAEL KOVALCHICK and CATHY KOVALCHICK, PETER KOVALCHICK and DONNA-LYNN KOVALCHICK Garnishees	:	

ORDER OF COURT

(Filed June 28, 2002)

RUSSELL, J.

AND NOW, this 28th day of June, 2002, at 12:30 o'clock PM., it is hereby ORDERED Defendant Helen Kovalchick's Petition to Proceed In Forma Pauperis is DENIED without prejudice to her re-submitting the petition with information identifying the amount of Social

Security benefits and contributions from children received, together with the amount held within any checking account, the value of real estate, motor vehicles and any other assets and filing proof of service of the petition upon all other parties.

BY THE COURT,

/s/ Russell J J.

APPENDIX C

SPRAGUE & SPRAGUE
BY: Richard A. Sprague, I.D. No. 04266
Charles J. Hardy, I.D. No. 16912
David L. DaCosta, I.D. No. 34491

Suite 400, The Wellington Building
135 South 19th Street
Philadelphia, PA 19103
(215) 561-7681

Attorneys for Plaintiff

R/S FINANCIAL CORPORATION Plaintiff	:	COURT OF COMMON PLEAS SCHUYLKILL COUNTY
vs.	:	No. S-1274-1977 No. J-802-1988
ANTHONY KOVALCHICK, SR., and HELEN KOVALCHICK, his wife, t/a BELL COAL COMPANY, Defendants	:	
vs.	:	
ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT, Additional Defendants	:	
MICHAEL KOVALCHICK and CATHY KOVALCHICK, PETER KOVALCHICK and DONNA-LYNN KOVALCHICK Garnishees	:	

ORDER

(Filed Aug. 6, 2002)

AND NOW, this 6th day of Aug., 2002, upon consideration of Helen and Anthony Kovalchick, Sr.'s Petitions to Proceed In Forma Pauperis and Plaintiff's response thereto, it is hereby **ORDERED** that the Petitions to Proceed In Forma Pauperis are **DENIED**.

BY THE COURT:

/s/ Dolbin J

J.

APPENDIX D

IN THE SUPREME COURT OF PENNSYLVANIA MIDDLE DISTRICT

R/S FINANCIAL CORPORATION	:	No. 229 MM 2002
v.	:	
ANTHONY KOVALCHICK, SR. and HELEN KOVALCHICK, H/W, T/A BELL COAL COMPANY,	:	
v.	:	
ROBERT ROSENSTEIN, HAROLD SALER AND WILLIAM GRANT, MICHAEL KOVALCHICK AND CATHY KOVALCHICK, PETER KOVALCHICK AND DONNA-LYNN KOVALCHICK	:	
PETITION OF: ANTHONY KOVALCHICK, SR. AND HELEN KOVALCHICK	:	

ORDER

PER CURIAM

AND NOW, this 23rd day of December, 2002, the Notice of Appeal, treated as a Petition for Review, is denied.

APPENDIX E

COURT OF COMMON PLEAS
OF SCHUYLKILL COUNTY
CIVIL ACTION – LAW

R/S FINANCIAL CORPORATION	:	**NO. S-1274-1977**
	:	**NO. J-802-1988**
Plaintiff	:	
	:	
v.	:	
	:	
ANTHONY KOVALCHICK, SR. and HELEN KOVALCHICK, h/w, t/a BELL COAL COMPANY,	:	
	:	
Defendant	:	**JURY TRIAL DEMANDED**
	:	
v.	:	
	:	
ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT,	:	
Additional Defendants	:	
	:	
MICHAEL KOVALCHICK and CATHY KOVALCHICK, PETER KOVALCHICK and DONNA-LYNN KOVALCHICK	:	
Garnishees	:	

PETITION TO PROCEED IN FORMA PAUPERIS

(Filed June ___, 2002)

The following party is without financial resources to pay the costs of litigation in this captioned matter and therefore respectfully requests this Honorable Courts permission to proceed In Forma Pauperis. The attached affidavit is submitted in support of the Petition to Proceed In Forma Pauperis.

Date: June 24, 2002

/s/ Anthony Kovalchick

Anthony Kovalchick
411 Schuylkill Avenue
Tamaqua, Pa. 18252
570-668-2647

COURT OF COMMON PLEAS
OF SCHUYLKILL COUNTY
CIVIL ACTION - LAW

R/S FINANCIAL CORPORATION	:	**NO. S-1274-1977**
Plaintiff	:	**NO. J-802-1988**
v.	:	
ANTHONY KOVALCHICK, SR. and HELEN KOVALCHICK, h/w, t/a BELL COAL COMPANY,	:	
Defendant	:	**JURY TRIAL**
v.	:	**DEMANDED**

ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT, Additional Defendants	:
MICHAEL KOVALCHICK and CATHY KOVALCHICK, PETER KOVALCHICK and DONNA-LYNN KOVALCHICK Garnishees	:

AFFIDAVIT

1. I am a defendant in the above matter and because of my financial condition am unable to pay the fees and costs of defending this action.

2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.

3. I represent that the following information relating to my ability to pay the fees and costs is true and correct:

(a) Name: Anthony Kovalchick
Address: 411 Schuylkill Ave.
Tamaqua, Pa. 18252

Social Security Number: 206-12-6377

(b) Employment

Employer: none
Address:

Salary or wages per month: none
Type of Work:

Unemployed Retired

Date of last employment: January 1982
Salary or wages per month: none
Type of work: none

(c) Other income within the past twelve months

Business or profession: none

Other self-employment: none

Interest: none

Dividends: none

Pension and annuities: none

Social security benefits: yes

Support payments: none

Disability payments: none

Unemployment compensation and supplemental benefits: none

Workman's compensation: none

Public assistance: none

Other: none

(d) Other contributions to household support

(Wife) (Husband) Name: N/A

If your (wife) (husband) is employed, state

Employer: N/A

Salary or wages per month: N/A

Type of work: N/A

Contributions from children:
Contribution for medications and taxes

Contributions from parents: N/A

Other contributions: N/A

(e) Property owned

Cash: N/A

Checking Account: Yes, for S.S. only

Savings Account: none

Certificates of deposit: none

Real Estate (including home):
411 Schuylkill Ave. Tamaqua, Pa.

Motor vehicle: Make Year

Cost Amount owed none

Stocks: none

Bonds: none

Other: none

(f) Debts and obligations

Mortgage: none

Rent: none

Loans: none

Other: none

(g) Persons dependent upon you for support

(Wife) (Husband) Name: Helen Kovalchick

Children, if any: N/A

Name: Age:

Other persons: N/A

Name:

Relationship:

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date: 6-22-02 /s/ Anthony Kovalchick
/s/ Helen Kovalchick

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF SCHUYLKILL :

On the 22nd day of June, 2002 before me, the undersigned officer, personally appeared Kovalchick, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged (he, she) executed the same for the purposes therein contained, and desired the same to be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Dorothy T. Kotch
Notary Public

Notarial Seal
Dorothy T. Kotch, Notary Public
Tamaqua Schuylkill County
My Commission Expires March 23, 2004

COURT OF COMMON PLEAS
OF SCHUYLKILL COUNTY
CIVIL ACTION – LAW

R/S FINANCIAL CORPORATION	:	**NO. S-1274-1977**
Plaintiff	:	**NO. J-802-1988**
	:	
v.	:	
	:	
ANTHONY KOVALCHICK, SR. and HELEN KOVALCHICK, h/w, t/a BELL COAL COMPANY,	:	
Defendant	:	**JURY TRIAL DEMANDED**
v.	:	
	:	
ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT,	:	
Additional Defendants	:	
MICHAEL KOVALCHICK and CATHY KOVALCHICK, PETER KOVALCHICK and DONNA-LYNN KOVALCHICK	:	
Garnishees	:	

PETITION TO PROCEED IN FORMA PAUPERIS

(Filed June 24, 2002)

The following party is without financial resources to pay the costs of litigation in this captioned matter and therefore respectfully requests this Honorable Courts permission to proceed In Forma Pauperis. The attached affidavit is submitted in support of the Petition to Proceed In Forma Pauperis.

Date: June 24, 2002

/s/ Helen Kovalchick

Helen Kovalchick
411 Schuylkill Avenue
Tamaqua, Pa. 18252
570-668-2647

COURT OF COMMON PLEAS
OF SCHUYLKILL COUNTY
CIVIL ACTION – LAW

R/S FINANCIAL CORPORATION	:	**NO. S-1274-1977**
	:	**NO. J-802-1988**
Plaintiff	:	
v.	:	
ANTHONY KOVALCHICK, SR. and HELEN KOVALCHICK, h/w, t/a BELL COAL COMPANY,	:	
Defendant	:	**JURY TRIAL**
v.	:	**DEMANDED**

ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT,
Additional Defendants

MICHAEL KOVALCHICK and CATHY KOVALCHICK, PETER KOVALCHICK and DONNA-LYNN KOVALCHICK
Garnishees

AFFIDAVIT

1. I am a defendant in the above matter and because of my financial condition am unable to pay the fees and costs of defending this action.

2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.

3. I represent that the following information relating to my ability to pay the fees and costs is true and correct:

(a) Name: Helen Kovalchick
Address: 411 Schuylkill Ave.
Tamaqua, Pa. 18252

Social Security Number: 180-22-1257

(b) Employment

Employer: none
Address:

Salary or wages per month: none
Type of Work: none

Unemployed Retired

Date of last employment: June, 1965
Salary or wages per month: none
Type of work: none

(c) Other income within the past twelve months

Business or profession: none

Other self-employment: none

Interest: none

Dividends: none

Pension and annuities: none

Social security benefits: yes

Support payments: none

Disability payments: none

Unemployment compensation and supplemental benefits: none

Workman's compensation: none

Public assistance: none

Other: none

(d) Other contributions to household support

(Wife) (Husband) Name: N/A

If your (wife) (husband) is employed, state

Employer: N/A

Salary or wages per month: N/A

Type of work: N/A

Contributions from children:
Contribution for medications and taxes

Contributions from parents: N/A

Other contributions: N/A

(e) Property owned

Cash: N/A

Checking Account: Yes, for S.S. only

Savings Account: none

Certificates of deposit: none

Real Estate (including home):
411 Schuylkill Ave. Tamaqua, Pa.

Motor vehicle: Make Year

Cost Amount owed none

Stocks: none

Bonds: none

Other: none

(f) Debts and obligations

Mortgage: none

Rent: none

Loans: none

Other: none

(g) Persons dependent upon you for support

(Wife) (Husband) Name: Anthony Kovalchick

Children, if any: N/A

Name: Age:

Other persons: N/A

Name:

Relationship:

4. I understand that I have a continuing obligation to inform the court of improvement in my financial circumstances which could permit me to pay the costs incurred herein.

5. I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date: June 22nd 2002 /s/ Anthony Kovalchick
/s/ Helen Kovalchick

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF SCHUYLKILL :

On the 22nd day of June, 2002 before me, the undersigned officer, personally appeared Kovalchick, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged (he, she) executed the same for the purposes therein contained, and desired the same to be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Dorothy T. Kotch
Notary Public

Notarial Seal
Dorothy T. Kotch, Notary Public
Tamaqua Schuylkill County
My Commission Expires March 23, 2004

APPENDIX F

COURT OF COMMON PLEAS
OF SCHUYLKILL COUNTY
CIVIL ACTION – LAW

R/S FINANCIAL CORPORATION, Plaintiff	NO. S-1274-1977 NO. J-802-1988
v.	
ANTHONY KOVALCHICK, SR. and HELEN KOVALCHICK, h/w, t/a BELL COAL COMPANY Defendant	
v.	
ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT, Additional Defendants	JURY TRIAL DEMANDED
MICHAEL KOVALCHICK and CATHY KOVALCHICK, PETER KOVALCHICK and DONNA-LYNN KOVALCHICK Garnishees	

PETITION TO PROCEED IN FORMA PAUPERIS RE-SUBMITTED WITH ADDITIONAL INFORMATION

(Filed July 12, 2002)

1. On June 24, 2002, Anthony Kovalchick filed a Petition to Proceed In Forma Pauperis in the above captioned case. A copy of the petition and affidavit are attached as Exhibit "1".

2. On June 28, 2002, the Court of Common Pleas of Schuylkill County denied the petition without prejudice to

Anthony Kovalchick re-submitting the petition with additional information. A copy of the Court Order is attached as Exhibit "2".

3. Anthony Kovalchick hereby submits the additional information requested by Order of Court dated June 28, 2002 and states the following:

4. Anthony Kovalchick is eighty one years old and receives Social Security benefits in the amount of $816.00 eight hundred and sixteen dollars per month.

5. The children of Anthony Kovalchick contribute money to him in the amount of $101.00, one hundred and one dollars per month to pay for prescription drugs and medical needs.

6. Anthony Kovalchick currently has $9.10, nine dollars and ten cents in his checking account.

7. The home Anthony Kovalchick lives in, is valued at a price between $30,000 and $37,000, thirty thousand and thirty seven thousand dollars. The deed to the home is currently in litigation in Schuylkill County Court of Common Pleas due to a Sheriff's sale of that home in November of 1983 by which Beneficial Discount Co. of Allentown, Pa. claims to have purchased the home and is listed as the owner in the Schuylkill County Court's deed office. The Sheriff's sale was held upon request of R/S Financial Corporation, the plaintiff in this captioned action.

8. Anthony Kovalchick is the co-owner of a car with his daughter Tony Ellen. The car is a 1993 Buick LaSabre and is valued at $3,500.00, three thousand five hundred dollars. Anthony Kovalchick has no other assets.

WHEREFORE, Anthony Kovalchick respectfully requests this Honorable Court to grant his petition to Proceed In Forma Pauperis.

Respectfully submitted,

July 12, 2002 /s/ Anthony Kovalchick
Anthony Kovalchick
411 Schuylkill Avenue
Tamaqua, Pa. 18252
570-668-2647

PROOF OF SERVICE

I, Anthony Kovalchick Sr., hereby certify that the foregoing Petition To Proceed In Forma Pauperis Re-Submitted With Additional Information and attachments was served via United States Mail, First Class postage as follows:

Sprague & Sprague
David L. DaCosta
Suite 400, The Wellington Bldg.
135 S. 19th Street
Philadelphia, Pa. 19103-4909

Michael Kovalchick
Cathy Kovalchick
110 Archery Club Road
New Ringgold, Pa. 17960

Peter Kovalchick
411 Schuylkill Ave.
Tamaqua, Pa. 18252

Donna Lyn Kovalchick Gerhart
324 Country Club Road
Lehighton, Pa. 18235

July 12, 2002

/s/ Anthony Kovalchick
Anthony Kovalchick
411 Schuylkill Avenue
Tamaqua, Pa. 18252
570-668-2647

COURT OF COMMON PLEAS
OF SCHUYLKILL COUNTY
CIVIL ACTION – LAW

R/S FINANCIAL CORPORATION, Plaintiff	NO. S-1274-1977 NO. J-802-1988
v.	
ANTHONY KOVALCHICK, SR. and HELEN KOVALCHICK, h/w, t/a BELL COAL COMPANY Defendant	
v.	
ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT, Additional Defendants	JURY TRIAL DEMANDED
MICHAEL KOVALCHICK and CATHY KOVALCHICK, PETER KOVALCHICK and DONNALYNN KOVALCHICK Garnishees	

PETITION TO PROCEED IN FORMA PAUPERIS RE-SUBMITTED WITH ADDITIONAL INFORMATION

(Filed July 12, 2002)

1. On June 24, 2002, Helen Kovalchick filed a Petition to Proceed In Forma Pauperis in the above captioned case. A copy of the petition and affidavit are attached as Exhibit "1".

2. On June 28, 2002, the Court of Common Pleas of Schuylkill County denied the petition without prejudice to Helen Kovalchick re-submitting the petition with

additional information. A copy of the Court Order is attached as Exhibit "2".

3. Helen Kovalchick hereby submits the additional information requested by Order of Court dated June 28, 2002 and states the following:

4. Helen Kovalchick is seventy-eight years old and receives Social Security benefits in the amount of $328.00 three hundred and twenty eight dollars per month.

5. The children of Helen Kovalchick contribute money to her in the amount of $252.00, two hundred and fifty two dollars per month to pay for prescription drugs and medical needs.

6. Helen Kovalchick currently has $9.10, nine dollars and ten cents in her checking account.

7. The home Helen Kovalchick lives in, is valued at a price between $30,000 and $37,000, thirty thousand and thirty seven thousand dollars. The deed to the home is currently in litigation in Schuylkill County Court of Common Pleas due to a Sheriff's sale of that home in November of 1983 by which Beneficial Discount Co. of Allentown, Pa. claims to have purchased the home and is listed as the owner in the Schuylkill County Court's deed office. The Sheriff's sale was held upon request of R/S Financial Corporation, the plaintiff in this captioned action.

8. Helen Kovalchick does not own a car and has no other assets.

WHEREFORE, Helen Kovalchick respectfully requests this Honorable Court to grant her petition to Proceed In Forma Pauperis.

Respectfully submitted,

July 12, 2002

/s/ Helen Kovalchick
Helen Kovalchick
411 Schuylkill Avenue
Tamaqua, Pa. 18252

PROOF OF SERVICE

I, Anthony Kovalchick Sr., hereby certify that the foregoing Petition To Proceed In Forma Pauperis Re-Submitted With Additional Information and attachments was served via United States Mail, First Class postage as follows:

Sprague & Sprague
David L. DaCosta
Suite 400, The Wellington Bldg.
135 S. 19th Street
Philadelphia, Pa. 19103-4909

Michael Kovalchick
Cathy Kovalchick
110 Archery Club Road
New Ringgold, Pa. 17960

Peter Kovalchick
411 Schuylkill Ave.
Tamaqua, Pa. 18252

Donna Lyn Kovalchick Gerhart
324 Country Club Road
Lehighton, Pa. 18235

July 12, 2002

/s/ Helen Kovalchick
Helen Kovalchick
411 Schuylkill Avenue
Tamaqua, Pa. 18252
570-668-2647

APPENDIX G

SPRAGUE & SPRAGUE
BY: Richard A. Sprague, I.D. No. 04266
Charles J. Hardy, I.D. No. 16912
David L. DaCosta, I.D. No. 34491

Suite 400, The Wellington Building
135 South 19th Street
Philadelphia, PA 19103
(215) 561-7681

Attorneys for Plaintiff

R/S FINANCIAL CORPORATION, Plaintiff	COURT OF COMMON PLEAS SCHUYLKILL COUNTY
vs.	No. S-1274-1977
ANTHONY KOVALCHICK, SR. and HELEN KOVALCHICK, his wife t/a BELL COAL COMPANY Defendants	No. J-802-1988
vs.	
ROBERT ROSENSTEIN, HAROLD SALER and WILLIAM GRANT, Additional Defendants	
vs.	
MICHAEL KOVALCHICK, CATHY KOVALCHICK, PETER KOVALCHICK and DONNA-LYNN KOVALCHICK Garnishees	

PLAINTIFF'S RESPONSE IN OPPOSITION TO PETITIONS OF HELEN AND ANTHONY KOVALCHICK, SR. TO PROCEED IN FORMA PAUPERIS

Plaintiff, R/S Financial Corporation, by and through its attorneys, Sprague & Sprague requests that the petitions of Helen and Anthony Kovalchick, Sr. to proceed in forma pauperis be denied and in support thereof aver as follows:

1. On June 24, 2002, Anthony Kovalchick, Sr. and Helen Kovalchick ("Senior Kovalchicks") filed a Notice of Appeal, purportedly from an Order dated May 29, 2002 denying reconsideration of an Order dated March 27, 2002, and both simultaneously filed petitions to proceed in forma pauperis. The Garnishee defendants, Michael, Cathy, Peter and Donna-Lynn Kovalchick ("Junior Kovalchicks") joined in the Notice of Appeal.

2. Helen and Anthony, Sr's petitions to proceed in forma pauperis should be denied. As detailed in schedules (attached as Exhibit "A") attached to Helen Kovalchick's 2001 bankruptcy filing (since dismissed), the Senior Kovalchick's have sufficient assets to prosecute an appeal. Moreover, there is absolutely no allegation that the Junior Kovalchicks, who joined in the Senior Kovalchick's appeal, are unable to finance the cost of litigation. Indeed, the Junior Kovalchicks have been litigating the same issues over and over again for the last nineteen years. The instant petitions to proceed in forma pauperis are an attempt to perpetrate a fraud upon the court to avoid paying expenses which the defendants can afford to pay.

WHEREFORE, for all the foregoing reasons Appellees respectfully request that this Honorable Court enter an

Order denying Helen and Anthony Kovalchick's petitions to proceed in forma pauperis.

Respectfully submitted,

SPRAGUE & SPRAGUE

BY: /s/ David L. DaCosta
RICHARD A. SPRAGUE
CHARLES J. HARDY
DAVID L. DaCOSTA

The Wellington Building
Suite 400
135 S. 19th Street
Philadelphia, PA 19103

Date: July 16, 2002

Attorneys for R/S Financial Corporation

CERTIFICATE OF SERVICE

I, David L. DaCosta, hereby certify that a true and correct copy of the foregoing **PLAINTIFF'S RESPONSE IN OPPOSITION TO PETITIONS OF HELEN AND ANTHONY KOVALCHICK, SR. TO PROCEED IN FORMA PAUPERIS** was served this day on the upon the persons indicated below by first class mail, postage pre-paid:

Anthony, Sr. and Helen Kovalchick
411 Schuylkill Avenue
Tamaqua, PA 18252

Michael and Cathy Kovalchick
R.D. 1, Box 152R
New Ringgold, Pa. 17960

Donna Lynn Kovalchick-Gerhart
324 Country Club Road
Lehighton, PA 18235

Peter Kovalchick
411 Schuylkill Avenue
Tamaqua, PA 18252

Dated: July 16, 2002 /s/ David L. DaCosta
DAVID L. DaCOSTA

APPENDIX H

IN THE
SUPERIOR COURT OF PENNSYLVANIA
MIDDLE DISTRICT

R/S FINANCIAL CORPORATION, Plaintiff/Appellee v. ANTHONY KOVALCHICK, SR. and HELEN KOVALCHICK, his wife t/a BELL COAL COMPANY Defendants/Appellants MICHAEL KOVALCHICK and CATHY KOVALCHICK, PETER KOVALCHICK and DONNA-LYNN KOVALCHICK Garnishees/Appellants.	NO.: 1123 MDA 2002

VERIFIED STATEMENT

Anthony Kovalchick and Helen Kovalchick states under the penalties provided by 18 Pa.C.S §4904 (unsworn falsification to authorities) that:

1. We are the Defendants in the above captioned action and because of our financial condition we are unable to pay the following fees and costs:

The filing of a supersedeas security. The alleged judgment of R/S Financial Corporation with interest since May 20, 1982 is in excess of 2 million dollars. Irreparable

harm would result to the defendants and garnishees in the matter if the supersedeas security is not waived.

2. My responses to the questions below relating to my ability to pay fees and costs of prosecuting an appeal are true and correct.

(a) Are you presently employed? NO.

(2) If the answer is no, state the date of your last employment and the amount of salary and wages per month which you received.

Anthony Kovalchick was last employed in 1991 and received wages in the amount of two thousand dollars ($2,000.00) per month.

Helen Kovalchick was last employed in 1968 and received wages in the amount of sixty dollars ($60.00) per month.

(b) Have you received within the past twelve months any income from a business, profession or other form of self employment, or in the form of rent payments, interest, dividends, pension, annuities, social security benefits, support payments or other source? YES.

If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

Anthony Kovalchick is eighty one years old and receives social security benefits in the amount of eight hundred and sixteen dollars per month ($816.00).

Helen Kovalchick is seventy eight years old and receives social security benefits in the amount of three hundred and twenty eight dollars per month ($328.00).

(c) Do you own any cash or checking or savings account? YES.

If the answer is yes, state the total amount of the items owned.

Anthony and Helen Kovalchick have a checking account. There is currently one hundred and ninety dollars ($190.00) in that checking account.

(d) Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? YES.

If the answer is yes, describe the property and state its approximate value and the amount of any encumbrances.

Anthony Kovalchick co-owns an automobile with his daughter Toni Ellen. The car is a 1993 Buick La Sabre and is valued at thirty five hundred dollars ($3,500.00). There are no encumbrances on the car.

The home that Anthony and Helen Kovalchick live in is valued at a price between thirty thousand (30,000.00) and thirty seven thousand ($37,000.00). The deed to the home is currently in litigation in the Schuylkill County Court of Common Pleas due to a Sheriff's Sale held in November of 1983. R/S Financial Corporation, Plaintiff in this captioned action, requested the sheriff of Schuylkill county to expose the home to sheriff sale. R/S Financial Corporation bid on the home at the sale but then refused to pay the bid price and was then sued by the Sheriff of Schuylkill County. The second bidder, Beneficial Discount Co. of Allentown, Pa. claims to have taken title to the home and are listed as the owner in the Schuylkill County Court Deed's Office. Anthony and Helen Kovalchick have

continued to live in the home since the Sheriff Sale of 1983 and have been paying the property taxes.

(e) List the persons, if any, who are dependent upon you for support and state your relationship to those persons.

NONE.

(f) List all your debts and obligations.

Pa. Dept. of Revenue	$6,200.00
Property taxes	$4,960.03
St. Lukes Hospital	$ 880.00
Vermillon Dental	$ 826.00
Personal loan	$2,002.05
Personal loan	$1,681.15

3. I understand that a false statement or answer to any question in this verified statement will subject me to the penalties provided by law (misdemeanor of the second degree).

Signature of Applicants

Date: August 13, 2002

/s/ Anthony Kovalchick
Anthony Kovalchick

/s/ Helen Kovalchick
Helen Kovalchick

Anthony and Helen Kovalchick
411 Schuylkill Avenue
Tamaqua, Pa. 18252
570-668-2647

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF SCHUYLKILL :

On the 13th day of August, 2002, before me, the undersigned officer, personally appeared Anthony Kovalchick and Helen Kovalchick, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged they executed the same for the purposes therein contained, and desired the same to be recorded as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Dorothy T. Kotch
Notary Public

NOTARIAL SEAL
Dorothy T. Kotch, Notary Public
City of Tamaqua, County of Schuylkill
My Commission Expires Mar. 23, 2004

Anthony Kovalchick
411 Schuylkill Avenue
Tamaqua, Pa. 18252
570-668-2647

August 13, 2002

Office of the Prothonotary Superior Court
100 Pine Street
Suite 400
Harrisburg, Pa. 17101

Re: Case No. 1123 MDA 2002
Petition to Proceed In Forma Pauperis

Dear Clerk:

Enclosed for filing is an original and seven copies of Appellants Petition to Proceed In Forma Pauperis. Please file stamp one copy and return it to me in the self addressed pre stamped envelope that I have provided. Thank you for your consideration.

Sincerely,

/s/ Anthony Kovalchick
Anthony Kovalchick